

91st Illinois General Assembly

Senate Transcript

STATE OF ILLINOIS
91ST GENERAL ASSEMBLY
SECOND SPECIAL SESSION
SENATE TRANSCRIPT

2nd Legislative Day

December 17, 1999

PRESIDENT PHILIP:

The Second Special Session of the 91st -- General Assembly will please come to order. Reading of the Journal. Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President, I move that reading and approval of the Journal of Thursday, December 16, in the year 1999, be postponed, pending arrival of the printed Journal.

PRESIDENT PHILIP:

Senator Geo-Karis moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objections, so ordered. Senator Karpiel, for what purpose do you rise?

SENATOR KARPIEL:

Thank you, Mr. President. To announce a Republican Caucus immediately in Senator Philip's Office. Those of you who are not on the Floor but in your office or somewhere in the building, please - I hope you can hear me - there is a Caucus immediately in Senator Philip's Office.

PRESIDENT PHILIP:

The Senate will stand in recess until the call of the Chair.

(SENATE STANDS IN RECESS/SENATE RECONVENES)

PRESIDING OFFICER: (SENATOR MAITLAND)

Senate will come to order. Message from the House.

SECRETARY HARRY:

Message from the House by Mr. Rossi, Clerk.

Mr. President - I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to wit:

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Senate Bill 224, along with House Amendment No. 2.
Passed the House, as amended, December 17th, 1999, by a
three-fifths vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

The Second Special Session will come to order. ...Secretary,
are there any motions filed?

SECRETARY HARRY:

Yes, Mr. President. Senator Dudycz has filed a motion with

respect to Senate Bill 224.

PRESIDING OFFICER: (SENATOR MAITLAND)

Mr. Secretary, the Chair requests that these motions be printed on the Calendar. It is so ordered. There have been a number of media who have asked to videotape. Channel 20 Springfield, WITS {sic} (WICS) Television, WGN-TV, Fox-TV, WLS Channel 7, all request permission to videotape the proceedings. Is leave granted? Leave is granted. Senator Petka, for what purpose do you arise, sir?

SENATOR PETKA:

Thank you -- thank you, Mr. President. Very respectfully, I would like to request a ruling from the Chair as to whether the Governor's Proclamation calling the Second Special Session, which specifically directs the action to be taken by the General Assembly, whether or not it exceeds the power of the Executive Branch as provided in Section 1 of Article II of the 1970 Illinois Constitution and, therefore, based upon this constitutional provision, whether the Second Special Session is constitutionally and properly convened. It is my opinion that the Proclamation that has issued, clearly, clearly encroaches upon the legislative prerogative and, as such, constitutes an unwarranted invasion of legislative -- of the right of the Legislature to decide public policy. And, Mr. Chairman, I respectfully request a ruling.

PRESIDING OFFICER: (SENATOR MAITLAND)

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Senator Petka, I have heard your request. Let me take that under advisement and get back to you, sir. Senator Demuzio, for what purpose do you arise, sir?

SENATOR DEMUZIO:

Well, on a point that the gentleman had just raised, with respect to the motion that he posed to you. You know, I wish I had the -- the transcript of the tape of the last couple of days, my friend, Senator Edward. It seems to me you guys have been quoting a 1972 statute around here of some sort with regard to a Special Session's constitutionality. But have at it. I love it.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Weaver, what purpose do you arise, sir?

SENATOR WEAVER:

Purpose of an announcement, Mr. President. There'll be a Rules Committee meeting immediately in the Anteroom.

PRESIDING OFFICER: (SENATOR MAITLAND)

A Rules Committee meeting immediately in the Anteroom. Senator Petka. Senator Petka, let me get back to you with my ruling, would you, please? In response to your request for a ruling, Senator Petka, the Chair would refer to subsection (b) of Section 5 (Article IV) of the 1970 Illinois Constitution. This Section empowers the Governor to, and I quote, in part, "...convene the General Assembly...in special session by a proclamation stating the purpose of the session..." The Special -- Special Session Act

25 of the Illinois Statutes, 15, sets out other provisions with regard to Special Sessions. This Chamber has organized and compiled with -- and complied with all constitutional and statutory duties required of it pursuant to the Governor's Proclamation. With -- with regard to your inquiry as it relates to the matter of the excess use of powers by the Executive Branch, the Chair rules that such question is a constitutional matter not properly before this Chamber, but one properly placed before the

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Judicial Branch of government. Senator Petka.

SENATOR PETKA:

Mr. President, with all due respect, I appeal the ruling of the Chair.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Petka has appealed the ruling of the Chair. It will take three-fifths vote to override the ruling of the Chair. All right. We had a... All right. All right. The question is, shall the ruling of the Chair be sustained. All those in favor will vote Aye. Those opposed, Nay. The voting is open. Have all voted who wish? Have all voted who wish? All right. I will repeat the question once again. The question is -- the motion was

read. I recognized Senator Petka. I was in the middle of that debate. We had a mechanical problem with the board and that -- and -- I can't recognize you then. I read the -- I will read the question again. The question is, shall the ruling of the Chair be sustained. I ruled that Senator Petka's motion was out of order. I -- the motion was not out of order; it was -- let me -- let me read, Senator... See, I -- I banged the gavel. I asked you to listen. Senator Petka had asked me the question. I read the -- I read my ruling and you weren't listening. All right? I will read it, Senator, again. In response to your request of a ruling, the Chair would refer to subsection (b) of Section 5 (Article IV) of the 1970 Illinois Constitution. The Section empowers the Governor to, and I quote, in part, "...convene the General Assembly...in special session by a proclamation stating that {sic} the purpose..." -- "...stating the purpose of the session..." The Special Sessions Act in the -- in the Revised {sic} (Compiled) Statutes, Section 15, sets out other provisions with regard to Special Sessions. The Chamber has organized and complied with all constitutional and statutory duties required of it pursuant to the Governor's Proclamation. With regard to your inquiry, Senator

Petka, I said, as it relates to the matter of the excess use of powers by the Executive Branch, the Chair rules that such question is a constitutional matter not properly - not properly - brought before this Chamber, but one properly placed before the Judicial Branch of government. Senator Petka appealed my ruling, and I was asking for a vote. If you -- if you agree with my ruling, you vote green; if you disagree with my ruling you vote red. I can't be any clearer than that. Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On that question, there are 35 Ayes, 9 Nays, 3 Members voting Present. And the vote, having failed to receive the necessary three-fifths negative votes to appeal, the appeal fails and the ruling of the Chair is sustained. Senator Cullerton, for what purpose do you arise, sir?

SENATOR CULLERTON:

Thank you -- thank you, Mr. President. I just want to make an observation. We've been here for four or five days with a lot of downtime. You chose to issue a ruling at the same time that the Rules Committee was meeting. I'm a Member of the Rules Committee. I was in the Rules Committee, and I didn't hear your ruling - not that I wasn't listening; I was in a meeting that was being conducted at the same time. So we simply came out, pressed our light, and said, "Could you please tell us what our ruling was?" You didn't recognize us to even ask that question.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Smith, for what purpose do you rise, ma'am?

SENATOR SMITH:

Mr. President, I want to clarify myself not voting, because there was too much confusion and I didn't know whether we were

voting for or against or what. It wasn't -- your statement was not clear. And for that particular reason, I did not vote. So I would like to vote -- be registered as Yes.

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PRESIDING OFFICER: (SENATOR MAITLAND)

Mr. Secretary, have there been any motions filed?

SECRETARY HARRY:

Yes, Mr. President. Senator Dudycz has filed a motion with respect to Senate Bill 224.

PRESIDING OFFICER: (SENATOR MAITLAND)

Mr. Secretary, the Chair requests that these motions -- this -- that this motion be printed on the Calendar. So ordered. Motions. Mr. Secretary, have there been any other motions filed?

SECRETARY HARRY:

Yes, Mr. President. Senator Larry Walsh has filed a motion with respect to Senate Bill 224.

PRESIDING OFFICER: (SENATOR MAITLAND)

Mr. Secretary, the Chair requests that -- that this motion be printed on the Calendar. So ordered. Committee -- I've got it now. Committee Reports.

SECRETARY HARRY:

Senator Weaver, Chair of the Committee on Rules, reports the following Legislative Measure assigned: Be Approved for Consideration - the Motion to Concur with House Amendment 2 to Senate Bill 224.

PRESIDING OFFICER: (SENATOR MAITLAND)

All right. Ladies and Gentlemen, Supplemental Calendar No. 1 has been distributed. Secretary's Desk, Concurrence. Mr. Secretary, the bill {sic}, please.

SECRETARY HARRY:

I move to concur with the House in the adoption of their Amendment No. 2 to Senate Bill 224.

The motion, by Senator Larry Walsh.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Larry Walsh.

SENATOR L. WALSH:

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Thank -- thank you, Mr. President, Ladies and Gentlemen of the Senate. As we all know, we've been here for five days now and -- and debated this back and forth. And on our side of the aisle, Senator Cullerton has been handling the negotiations and -- and the work on this bill, and I am going to yield to Senator

Cullerton to -- to explain the amendment and answer the questions that our Members may have.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton.

SENATOR CULLERTON:

Thank you, Mr. President, Members of the Senate. The Governor had appointed a task force, chaired by the Attorney General. I was a member of that task force, along with other representatives of State's attorneys' associations and members of different caucuses, and this amendment, which was added in the House today and passed in the House with, I believe, ninety votes, came as a result of that task force. It was at that recommendation of that task force that this compromise take place. So the first thing that this amendment does, of course, is to reenact the Safe Neighborhoods Act and it's limited to criminal laws, in response to the Supreme Court's ruling on single subject. The most controversial Section, of course, of that reenactment is the penalties for unlawful use of a weapon. So this amendment, which is now the bill, retains a felony conviction for unlawful use of a weapon, but it recognizes that this particular offense has a wide variety of severity on the -- on the spectrum. This particular offense can be a known, hardened criminal who has a loaded weapon on his person or in his car, or it could be a hunter who's traveling to go hunt and -- and has a weapon in his car and perhaps he's not following some technical -- rule of the -- the law and, as a result, he's in violation of this Section. So recognizing that we have this -- this spectrum, the task force

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came up with and borrowed on a concept that we already have in criminal law that's designed to give a first offender an opportunity to serve a period of probation, at the end of which time that person -- that case is dismissed. And that is borrowed from Section 410 of the criminal statute, which deals with possession of small amounts of drugs. That's what's borrowed. That's the concept. And it's designed to say that if someone is a hardened criminal, deserves a serious felony conviction, they won't get this type of probation. The other thing that we did is recognize that there is some confusion with regard to how you transport weapons. Even though the law, we think, is pretty clear, courts have made different interpretations. So we wanted to take the same language that's in the law now, but restate it, and through our legislative debate, make it clear to the courts of what we think the rules are. So I'd like to read that, because the other day in committee, Senator Philip raised the question about -- a concern about a deer hunter taking their weapon, throwing it in a bag, throwing in the back of their sports utility vehicle and being considered a felon. And my belief is that that's not the law, but we definitely need to -- to clear this up. So we put right in this bill, on page 81, that it's not an unlawful use

of weapon when you're transporting it if it's broken down in a nonfunctioning state or if it's not immediately accessible. Now, that definitely means you can put a loaded weapon in your trunk, 'cause that's not immediately accessible and it's not a violation. If you put it in a Suburban vehicle that doesn't have a trunk and you put it in a locked case and you put that case way in the back, maybe a court might say it's immediately accessible, maybe they won't. So, to be safe -- and if I understand what you're supposed to do if you're a hunter, you're supposed to take the ammunition out of the weapon anyway. So if you take the ammunition out of the weapon, then all you have to do is put it in any -- enclose it

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in any container. And here's what the language says: It's not against the -- it's not against the law if it's unloaded and enclosed in a case, firearm carrying box, shipping box or other container by the possessor of a valid Firearm Owners Identification Card. So we're restating that to make it clear these are the rules - if you're transporting your -- your weapons, these are the rules: It's just enclosed in any container, as long as it doesn't have any -- any ammunition in it. Okay. Then we get to the probation. Now, what it says is -- we wanted to tell the

court that if a person is qualified for this probation, we really think they ought to get it. And so we say in here when a person pleads guilty to or is found guilty of this UUW Section, the court, without entering judgment, places the person on probation, unless that person has been convicted of a felony, within the last two years was convicted of a misdemeanor, excluding minor traffic-related misdemeanors, or within five years has been adjudicated a delinquent, or if they don't have a Firearm Owners Identification Card. Otherwise, if they don't have any of those things - if they have a valid Firearm Owners Identification Card and haven't been convicted of a felony or a misdemeanor within two years - then they're eligible, and not only are they eligible, but the language says the court "shall" give them this probation. Now, there could be a case, though, where a State's attorney is aware of circumstances surrounding this particular unlawful use of weapon charge, that he or she thinks ought to be brought to the attention of the court. I'll give you an example. Let's say some guy is arrested, driving in his car, gets stopped for a traffic ticket. They -- they see a loaded weapon on the front seat. Turns out the guy had just called his wife, who was -- he's in a divorce, or his ex-wife, and he's threatened her and he's on his way over to see her, and he's got a loaded weapon. That might be a reason why the State's attorney might say to the judge, "You

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know, Judge, I don't think this particular individual ought to get this particular probation." So what we say here is that upon objection of the State's attorney, the burden shall be on the State's attorney to show sufficient cause to overcome the presumption of probation - the "presumption" of probation. The objection of the State's attorney alone shall not be sufficient to overcome the presumption. So they have to put on a good reason and then convince the court that this person shouldn't get this particular probation. Now, when they're placed on probation, we compromised. For the drug probation, it's two years. The task force recommended one year. Some of the people in -- in the Senate said it should be up to one year, so that, in effect, it could be just one day, under some circumstances. So that was rejected and we came up with a compromise where we said this probation is six months to a year, whatever the judge wants to give. Now, the conditions of that probation are: While you're on the probation, you can't violate any criminal statute of any jurisdiction, other than a municipal ordinance, and if your county has a funded community service program, you perform community service; if they don't, you don't have to do it. In addition, the court may, but not shall, but the court "may" require you to pay a fine and costs; they may require you to appear in person, but most of the time, they -- they probably won't; and we put in here -- since this is a unlawful use of weapon charge, we put in here the requirement -- or, the -- the option for a judge to say, "You know what? I want to -- I want you to refrain from possessing a

firearm or other dangerous weapon." Now, this is optional. It's up to the judge. And the reason why we did this is because if we take our -- our hunter example of somebody who technically violated this Section, maybe the judge in that case says, "You're going to get this probation. I know that you want to continue to hunt, so you can keep your weapon. We'll give it back to you

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right now." Some people said, "Well, there's a problem. If you get this probation, what about your Firearm Owners ID Card?" So recognizing that, we talked to the State Police. Now, the State Police said if you get this probation, you're going to automatically lose your Firearm Owners ID Card. Now, the reason why that's bad is because if you legally own weapons and they're at your home or your place of business and your FOID Card is invalidated, you're committing another crime. So, we put language specifically in here - and asked the State Police to draft it - that has the effect of not suspending your Firearm Owners ID Card. It specifically says, on page -- on line 27, page 86: "During the period of probation, the" -- "the person shall not be considered under indictment or otherwise charged with a crime." That language is in there specifically for that FOID Card problem. So

now you have a situation where you don't lose your FOID Card, you're charged with this offense, and it's up to the judge to decide whether or not your weapon should be -- whether or not you should be allowed to even possess it. I think it was a reasonable compromise, 'cause I thought the people that made the point about the FOID Card made a good point. Now, the next Section deals with expungement. Right now, in Illinois, arrest records are not discoverable. Arrest records are not discoverable. Convictions are discoverable, are -- the public can -- can learn about convictions but not arrest records. And in Illinois, now, if you've been arrested for an offense but not convicted, you can go to a judge and ask for an expungement. You have to wait anywhere from two years to five years to do that, depending upon the crime. What we've done with this bill is made a special expungement law, peculiar just to this offense. And what we've said is, after your period of sentence - let's say it's six months - instead of waiting for a year or five years, you wait just one year, and then you file a request for an expungement. It's one piece of paper.

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You don't need a lawyer. You can do it pro se. You file it with the court, and the court -- the way -- the way we're drafting this

- once again, the court "shall" issue the expungement unless the State's attorney, once again - and they have the burden - shows that there's a reason not to. And that could be, for example, that maybe you committed another crime in that interim period. So there's a presumption that you get the expungement, but the State's attorney can object. Now, the way the expungement works is this: The police records at the local municipality that arrested you, they get an order to destroy all records of this arrest, and that's a court order that they have to follow. The State Police has a repository of arrest and conviction records. That's a person's rap sheet, if you will. Up until the time of the expungement, if a law enforcement officer wants to see if a person has a -- ever been arrested, they can access that computer, and up until the time of -- of the expungement, it would show this person's been arrested for unlawful use of weapon. The public's not entitled to that, but a law enforcement person could. After the expungement is entered, that law enforcement person cannot gain access to the information that you were ever arrested for a UUW. The only way you could find out that that person was arrested for a UUW would be if they were arrested again for a UUW and they wanted to get this special probation again and the State's attorney checked to see whether or not you ever had an arrest for this. Because, remember, we don't want to have -- you to have this opportunity for this probation more than once. Other than that, the arrest record is expunged. Now, people have asked the question: What if you're asked by your prospective employer whether or not you've ever been arrested for a felony? You know, the fact of the matter is that we understand there's a State

statute dealing with the Human Rights Commission that says it's a violation of the Human Rights Commission to even be able to ask

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somebody to -- for an employer to ask somebody if they've ever been arrested. Okay? Now, that is in the law - not to say that employers don't ask. Okay? The fact of the matter is, you've never been convicted because the effect of this special probation is a dismissal of the case. So, it does pose a problem if somebody asked you if you've ever been arrested. You can, it seems to me, either refuse to answer it or you can answer, "Yes, I've been arrested. I was found not guilty, and the reason why I was found not guilty was 'cause I got this special probation, and the reason why I got this special probation is because I was a hunter, I was driving my sports utility vehicle and I forgot to zip my case up all the way." So, that's the only way I can answer that question. The fact is, that employer could never discover the fact that you were arrested by submitting a request to the State Police 'cause it's been expunged. The -- the -- the bill has been changed at the request of a number of people who were concerned about these people who are considered, while violating the statute, not hardened criminals. So we have crafted this

probation for people who have no convictions, have -- this is their first offense. And as a result, we are able to keep what is, by many people, considered a very important part of the law. Now, for four years now, we've had UUW be a felony. We've seen what it has done. Now, the crime rate has come down. I'll acknowledge that. But there's been a dramatic reduction in the number of weapons that's been confiscated, up in Cook County anyway, because -- once we changed it to a felony. And that is what the principle that -- has been so strongly committed to by the Attorney General, by the State's Attorney of DuPage County and Cook County, and by the -- the Governor and the Mayor of Chicago. And that is why we're doing this. Thank you very much.

PRESIDING OFFICER: (SENATOR MAITLAND)

Is there discussion? Senator Weaver.

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SENATOR WEAVER:

I would move the previous question.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Weaver has moved the previous question. There are one, two, three, four, five, six additional speakers. Senator Obama. Senate -- I'm sorry. Senator Smith, for what purpose do

you rise? Senator Smith.

SENATOR SMITH:

Did you get my -- did you hear me?

PRESIDING OFFICER: (SENATOR MAITLAND)

I -- I think you requested a...

SENATOR SMITH:

I request, please, sir, of the Chair...

PRESIDING OFFICER: (SENATOR MAITLAND)

Yes, ma'am, I did. Could you tell us, Senator, how...

SENATOR SMITH:

...if we could have a caucus -- Democratic Caucus meeting right away in the office of Senator Emil Jones.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Philip, for what purpose do you arise, sir?

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. You have been in a caucus. We have been waiting to adjourn the Senate for almost an hour because you were in caucus. It's another delaying tactic, for some reason, and quite frankly, I think you're out of order. You've had your caucus for two hours, and we waited to open up the Session to be fair. You call me and said, "Well, another ten minutes, another fifteen minutes." We've delayed everything. Let's -- let's have a vote and get it over with.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Jones, for what purpose do you arise, sir?

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SENATOR E. JONES:

Thank you, Mr. President. I'm surprised at the Senate President. Yeah, we did come together but we did not officially have a caucus. If you'll recall, Senator Philip, when it was called into Session, you called for a -- you called for a Republican Caucus in your office, because we did not call for one at that time because we did not have any paperwork, as you had, so we could discuss this issue. Now, I know you and I did talk for several times, when you -- wanted to go in Session. We were busy trying to find Members so that we could intelligently discuss the issue. I had to wait for Senator Larry Walsh because he was the sponsor of the bill and we couldn't even find him to file the motion. But there was several other people whom we were looking for who did not have an opportunity to discuss this in the caucus, so my Caucus Chair respectfully requests a caucus meeting and -- it can't last no more than ten to fifteen minutes, because most of the Members were not available. When you're in the Minority -- when you are in the Minority, it's unlike it is in the Majority because you know when you're going to call your meetings and so forth. So I respectfully, Mr. President, request a caucus meeting, as my -- my Caucus Chair has so indicated, and give us about fifteen minutes. We'll be right back out.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Philip.

SENATOR PHILIP:

You -- you know, you're certainly out of order, but we're, once again, going to be the good guys and -- and go the extra mile. We're going to give you ten minutes, and be back here in ten minutes. We're going to proceed.

PRESIDING OFFICER: (SENATOR MAITLAND)

There's a Democratic Caucus in Senator Emil Jones' Office. The Senate will stand in recess until 6:30.

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PRESIDING OFFICER: (SENATOR MAITLAND)

Senate will come to order. Further discussion? Senator Hendon. I'm... Senator Demuzio, for what purpose do you arise, sir?

SENATOR DEMUZIO:

Point of personal privilege. I'd like to -- the record to reflect all week that, I think from Tuesday on, Senator Silverstein has not been here because of family business. I'm

sorry. Thank you.

PRESIDING OFFICER: (SENATOR MAITLAND)

The record will so indicate, Senator Demuzio. Senator Hendon.

SENATOR HENDON:

Thank...

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton, for what purpose do you arise, sir?

SENATOR CULLERTON:

Thank you. Mr. President, I would direct your attention to our rules, Rule 8-4(d) says, "Any Senate Bill amended in the House and returned to the Senate for concurrence in the House amendment shall lie upon the desk of the Secretary for not less than four hours before being..." -- "...before being further considered." Now, I know sometimes we tend to ignore these rules, but we've got a lot of media here watching us this time, and I think it would be nice if we would actually follow our rules in this particular case.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton, the custom and tradition of this Chamber would suggest that the paper was properly filed, action was taken, the sponsor filed the motion on a timely basis and we moved

forward. It was his desire to move forward with the -- I called upon him. He was ready to go. He -- he -- the bill was read and Senator Walsh was at the microphone and willing to speak to the bill and turn it over to you, sir. ...Cullerton.

SENATOR CULLERTON:

The roll call in the House was time-stamped. They had 92 Yes votes, by the way, and it was voted on at 3:37 p.m. Okay? By -- by our operation of our rules, not whether Larry Walsh knows what time it is that the House vote was taken and whether or not four hours have passed, it's not -- it's not Senator Walsh's responsibility to count the four hours. He doesn't, perhaps, know exactly when the -- the bill was voted on in the House. So if you want -- you've got the Majority. If you want to suspend the rules, you can do that. But let's just try to follow the rules or suspend 'em. That's all I'm requesting.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton, I have made my ruling. We will proceed. Senator Hendon.

SENATOR HENDON:

Thank you, Mr. President. Well, the hour is late. I'll be very brief. I still agree with the -- those of us who feel that this should be a misdemeanor because of all the issues that I stated yesterday. I know everyone wants to go home for Christmas and have a jolly-old good time, and I know a lot of people on this side of the aisle like -- wants to ignore the facts that we've had this law now for four years and no one's going to jail except African-Americans and Latinos. And I guess it will continue. But

it just amazes me to hear my liberal friends -- so-called liberal friends cloud the question, dodge all of the pertinent facts and do all that they can to convince Brer Rabbit to put his head in the noose once again for some political reason. I urge you tonight to vote your constituents, especially those who are black

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and brown and know that ninety percent - ninety percent - for the last four years of all those arrested, charged, have been black and brown. More black women, for all of the women in here, have gone to jail under this legislation than white males. And I -- I refuse to accept the fact that people want to say, "Well, all of those are gangbangers, all of those are troublemakers." What about the poor businessman from my district who simply wants to take his receipts from his office to the bank? He's going to jail. And to say that you can get an expungement and all that, some people can get some, but my constituents can't. I urge all of you who are fair-minded to hold this up and let's spend a little bit more time here till we get a bill that's fair. Because it's unconstitutional to have any legislation, any law, that is not being given out equally among the citizens of Illinois.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Philip, for what purpose do you arise, sir?

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Like to announce the presence of the great Governor of the great State of Illinois, George H. Ryan.

PRESIDING OFFICER: (SENATOR MAITLAND)

Governor, welcome. Welcome. I'm going to -- I'm going to make a request of the Doormen, now, to secure the doors. I want all unauthorized people off the Floor. It's getting too hectic in here. This is serious debate. So, Doormen, please secure the doors. Further discussion? Senator Obama.

SENATOR OBAMA:

Thank you very much, Mr. President. I, too, am going to be relatively brief. My first task, I think, is -- is to -- is to commend Senator Cullerton and the other legislators who've worked long and hard on this particular piece of legislation. But I also

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want to commend Senator Hawkinson and Petka, because I know that this has ended up being cast as a partisan issue, politically, as often happens, but I think that Senator Hawkinson and Senator

Petka have been as sincere in trying to pursue a compromise on this issue, as has Senator Cullerton. And I think all parties who've been involved in this process deserve to be commended on what has been, admittedly, a difficult process. Second point I want to make: Right off the top, I should let everybody know that I'm going to be a Yes vote on this bill. And -- and I -- and I -- the reason I'm going to be a Yes vote is because philosophically I believe that, in fact, modest gun control works in making our streets safer. And I recognize that other people disagree and there are legitimate disagreements. Some people believe that concealed-carry, in fact, will reduce crime on the streets. I do not agree with that. The statistics I've reviewed indicate otherwise. I'm not sure that we're going to change each other's minds on that particular issue. But a point I do want to make is: For those of you who I think were willing to support last night's bill, I had heard -- and maybe this is hearsay, secondhand - but I had had heard that one of the concerns that some Members on the other side of the aisle had about this bill was that the State's attorney could still object -- could still object to probation, if the State's attorney showed good cause. And, they're concerned that the State's attorney should not have that discretion to object. And I do want to point out that last night's bill that we voted on and many of you voted on, in fact gave the State's attorney much more discretion than this bill, that it gave the State's attorney the discretion to choose whether to charge you with a felony or a misdemeanor. To the extent that you were comfortable with the State's attorney exercising that discretion that was contained in the bill many of you voted for last night, I think it's important that you consider that, if one of your

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objections is that the State's attorney has discretion, in terms of still objecting with respect to probation. That's point number one. Point number two: I share, deeply, the concerns that Senator Hendon has already expressed, and many others on this Floor have expressed, with respect to selective enforcement. My response to those issues is that I believe that we have selective enforcement a whole -- across a whole host of criminal laws on the books. I do not think that this particular law is unique in that respect, which is why, in January, I'm going to be introducing a racial profiling bill that allows us to start tracking and figuring out whether, in fact, stops are being selectively made with respect to race. I'm deeply concerned about that issue, having been the subject of stops that I suspect were selective and based on my race. But I think that the reason for voting against this bill should not be because there's selective enforcement. This bill does not call for selective enforcement. The fact of the matter is, selective enforcement is occurring outside of this Chamber, outside of this law, on many criminal statutes in many areas around the State. And if we want to deal with that issue, we should deal with it. And I'm the first one who wants to deal

with it. I'll be first one standing in line. But it doesn't make sense for us to vote against this particular provision and choose this bill to make a stand with respect to selective enforcement when, in fact, we could have chosen a whole variety of bills to do so. That's my second point. And my last point - and this goes a little bit beyond this bill, but I do want to make this statement now because I'm not sure I'll get another opportunity: There has been a lot of discussion about the issue of expungement with respect to this particular legislation, that we don't want honest citizens being permanently marred with a felony record. I would like to suggest here today that we think about this expungement issue more broadly when we come to other criminal laws that are on

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the books, because the fact of the matter - and Representative Turner last night -- this afternoon stated it extremely eloquently and I've heard many people on the other side of the aisle mention this - that, right now, on the books, it is impossible to find a job if you have a felony record. And we may want to consider whether there are other criminal laws on the books that would allow us, after a certain period of time, to expunge people's records, to allow them, in fact, to be gainfully employed, to

support their families and enter into the mainstream of society. I will close simply by saying that, again, I respect the work that was done on both sides of the aisle. I think this has gotten somewhat political. I think if you examine the differences between this bill, the bill last night, the bill we considered in Executive Committee yesterday, that, in fact, the substantive differences on these bills are not that great, and I would urge us, at this point, to consider what's best for the citizens of Illinois, as opposed to what's best for our short-term political interests. I urge a Aye vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Molaro.

SENATOR MOLARO:

Thank you, Mr. President. Religion, guns, abortion. You ever want to go to a dinner party and start talking all night long, bring up one of those three subjects. You could talk forever. You'll get emotion coming out of -- out of everybody. People who are the most stoic people in the world, you start talking about those three issues, and you'll see emotion rise up here. Now, we're called into Session because the Supreme Court said a law was unconstitutional because of dual subject. So now we come back, let's reenact it. Only one problem. One of the things that was in that law was this gun provision about making it a felony, and all of a sudden -- when we called the Special Session, too bad we

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couldn't call it the day it was struck down, because once we started discussing it - just like at a party or at a dinner table - here comes the emotion, rising to the top. Here come the red faces. Here comes everybody talking about emotion, not law. And it's a very difficult subject to get into. That's why over the years we've been voting, it's either a misdemeanor or a felony. Now, Senator Hawkinson and Senator Petka, who, once again, because of their intelligence and integrity, has raised the stature of this Body with the work that they perform, came up with a bill yesterday that was close. There may not be two men in the country who could have come up with what they came up with, to bring it as close as possible to fitting a square peg in a round hole and trying to bring together a felony and a misdemeanor. What should we do? It was very good work. Unfortunately, it wasn't what we were brought down here to do. Felony went back to a misdemeanor. Let's bring it back to a felony. So now, other great minds got together and they came up with this compromise. The best thing about this compromise is that it came from the Governor and the Attorney General who are the -- are our leading law enforcement and the Chief Executive Officer, who proclaim that we should be down here. This is still difficult. There may be a problem or two with it. But it's the best we can do with -- is it better than last night's? I don't know. I don't know. But it's the Governor's. It's the Attorney General's. That's what they're

asking us to do. The Chief -- Executive Officer asked us to come here. That's what we're doing. I don't know, really know, what we should do about guns and abortion. We'll be debating those issues for the next, probably, fifty years. But we could come back in January. That doesn't stop one of my colleagues here or one of my colleagues over there or across the hall to file anything they want to make -- push it back to a misdemeanor, push it back wherever, where we'll have three or four months of debate.

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All we're here today to do is to put it back to where it was before the Supreme Court struck it down, for other reasons. That's all we're supposed to do for the last four or five days. The only reason that we're here four or five days is because religion, guns, abortion. That's the only reason we're here. I say this: Let's vote on this. It keeps it a felony. You can take it off for the first-time offenders. We looked to the law. We did it for drug users. We said we want all these drug possessions, we want them to be felonies, we want them to go to jail. That's what we want. Ask your constituents. But we thought, "Wait a minute. First-time offenders - giving them a record is too harsh." So we went to expungement - probation and expungement - and that's what

we're doing here. Is it the best thing to do? Well, no, probably the best thing is to keep it a felony or make it a misdemeanor, but we can't do that. We're trying to compromise. Is it better than last night's? Again, I don't know, but it's the Governor's proposal. That's why we're here. Let's give it to him tonight so we can go out, make it a felony with probationable language in there, with the expungement, and then if there's a problem, we can fix it when we get back. So let's do the right thing and vote Yes.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Madigan.

SENATOR R. MADIGAN:

Thank you, Mr. President, Members of the Senate. I just want to point out something that Senator Cullerton pointed -- presented in his presentation, as far as the language on this dealing with the Firearms Owner ID Card, in that under this legislation, if you're found -- or, if you're granted probation for a firearms offense under this legislation, that language that the State Police gave -- presented allows you to keep your Firearms Owner ID Card, which under current practice, the State Police suspend your

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Firearms Owner ID Card if you're on probation for a felony, such as deceptive practices. If you're given probation for -- for deceptive practices, then you lose your Firearms Owner ID Card. So if we pass this bill, you get to keep your Firearms Owner ID Card if you're guilty of a firearms offense, but if you write a bad check, you lose your Firearms Owners ID Card.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Munoz.

SENATOR MUNOZ:

Thank you, Mr. President, Members of the Senate. What I'm going to be handing out right now, they're going to be passing out to you, is three sheets of paper: one, application from the City of Chicago, an application from Cook County, and an application from the State. During debate yesterday and as well as today, it was brought up, if you're convicted of a felony, would that stop you from ever being employed by a government job. Well, I have the facts here, and you will see it clearly. On all three of these applications it states -- they ask you the question, "Have you ever been convicted of any crime," not have you ever been charged. And if so, list it and put the date that -- when you were convicted and what it was of. But it also goes on to state, once you describe that you have been convicted of a crime, that doesn't mean that you cannot be employed by the City of Chicago, Cook County or the State of Illinois. These are true facts. It was an excellent question that was brought up and I just wanted to share that with you, to show that if, in fact, they're convicted, that that won't happen. Two, Ladies and Gentlemen. During this law that we've had for approximately five years, even though it was a harsh penalty for carrying a firearm, it being a felony, let

me tell you, in the City of Chicago, what has transpired with Chicago police officers, and not even counting what's going on in local law enforcement. Over the past five years, fifty-two police

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officers have been shot, seven have been killed. All of them have had families. If you want to talk about race, creed or color, a bullet doesn't know about that. These people go out there and -- and perform their duties as best that they can, not knowing what's going to happen when they pull over a vehicle or when they go into a house for a domestic call or shots fired. I understand somebody can say, "Well, that's what you chose. That was your profession. You took the oath to uphold the law and serve the citizens of the State of Illinois." That's true. I do it because I enjoy it and I love serving the City of Chicago in that manner. But let me also tell you, Ladies and Gentlemen of the Senate, there are so many children that have been killed on the streets of Chicago, and it's a shame. They didn't have the chance, like we've been given the chance whether to become a police officer or not. They will never, ever grow up and become doctors, lawyers, possibly elected officials such as yourselves. We need to give them a chance, because for what goes on in the City of Chicago, it can clearly

reach out to Senator Weaver's district, Senator Jacobs' district and, by all means, Senator Demuzio's district. This past Session I was working with Senator Bowles on amphetamine drug laboratories that are going on in her community. Well, let me tell you, that's just the beginning of what can happen, because the drug dealers that push the heroin, the crack cocaine, they're not going to go to the average person and want to talk to them; they're going to go after your little children, try to get them hooked - your teenage boy, your teenage girl - and before you know it, once you're hooked, they do not know what they're doing. Because why work -- and -- Senator Dudycz can stand next to me and tell you the same thing, what I'm about to tell you. Who comes and buys the drugs in the 11th District? They come from the suburbs, well-to-do - doctors, lawyers. We confiscate their cars, and that's not enough. There's over one hundred drug spots in the

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11th District alone. Seventy of them are open twenty-four hours a day, seven days a weeks, selling drugs. It's a billion-dollar industry, and that's in the City of Chicago alone. I know we all have differences, different opinions because from where we come from, and that's all great, because obviously you've been doing a

great job or else you wouldn't be here. But, Ladies and Gentlemen, let me tell you something: We all have one thing in common, and that's to do what's right for the people that we represent. And what we should think about before we press that button: Is that going to be what's right for our future and our children? Ladies and Gentlemen of the Senate, I beg you for your support in this bill, for I have three children back home and they go to local schools within my district, and they can be gunned down by the average gang member because they're fighting amongst each other, for the statistics are there and it can very well happen to you. Thank you, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

Further discussion? Senator Petka.

SENATOR PETKA:

Thank you, Mr. President and Members of the Senate. There's perhaps nothing...

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Petka, just a moment, please. Senator Philip, for what purpose do you arise, sir?

SENATOR PHILIP:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. Acknowledge the great Speaker of the Illinois House, Mike Madigan.

PRESIDING OFFICER: (SENATOR MAITLAND)

Speaker Madigan, welcome. Would you proceed, Senator Petka.

SENATOR PETKA:

Well, thank you, Mr. President and Members of the Senate. One of the tougher obligations we have as a Senator in connection with

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speaking on legislation is to stand up immediately after a very heartfelt, emotional appeal has been made by someone who puts his -- his life on the line every time he puts on his -- his uniform. I have nothing but the highest respect for the law enforcement community. Many here know that my father was a Chicago police officer for thirty-three years. I hope -- would hope to think that the position that I would be taking on the bill and that -- that I plan on taking on this bill would be something that would actually be approved by my father. When we have listened to the discussion on this legislation, all I can keep on thinking about is, once again, we are going through a very complex regulatory scheme which the sponsor took more than fifteen or twenty minutes to try to explain to us exactly what it did. I said yesterday to your side of the aisle that the bill that -- that was proposed was really the better bill and that you'd never see a better bill come into the General Assembly on this issue. When you take a look at what you had an opportunity to send to the Governor last night and what you have here today, there's little doubt. Just a few comments on what I consider to be some of the negative aspects of this legislation. According to the -- the analysis that I read and according to the sponsor, a person who is put on this special

form of probation, after one year would then be required to wait another year. Unfortunately, I can't understand the -- the rationalization for doing this because the people who would be eligible for this special probation are those individuals who have no criminal history, are not -- who are not drug pushers, not gangbangers, who because of the nature of the offense, the character and their own personal history, appear to be good guys. So why stretch it out? But just as important, I heard the -- a statement made, which I really found startling, that an arrest is not a matter of public record. In our local papers, we have something called the police blotter. Everyday you open it up, you

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can read everybody who was -- who was arrested and the newspapers, the last I heard, simply -- the access to the newspapers is something that can be gained either at the -- at a newsstand or in a public library. But I'm not going to -- the good news tonight, folks, is that I'm not -- to my side of the aisle, I'm not going to -- to, once again, argue the Article II, Section 1 of the Illinois Constitution. I tried to make my point before. It's been summarily rejected. But I will tell you this: Here we go again. People versus Cervantes. The language of the Supreme

Court towards the end of the opinion, that that case was a classic case of logrolling because it had offensive provisions in the bill that were tidied up together with all types of provisions that, quote, "everybody had to vote for". We could send out this -- this -- this bill. We could send it out on almost a unanimous roll call in the House and the Senate, but we have had to insert a provision into this bill which is a subject of great controversy. So in order for that side of the aisle to pass this bill, they -- they have linked this bill together with a provision, thus actually taking the Supreme Court's statement of -- against logrolling and throwing it back in their face. There is no question - there is no question - that reasonable minds can -- disagree as to what the proper public policy statement that should be made by the General Assembly here tonight. But I believe that if you examine the merits of the bills that we've passed, if you examine the -- the position that has been taken by the Majority caucus here, the bill that we gave you yesterday, in my opinion, is as good as it gets. And this bill simply, simply falls flat on its face, for lots of reasons that most folks, even on that side of the aisle, may concede. For that reason and for, once again, what I believe to be a violation of Article II Section 1, I plan on opposing this legislation.

PRESIDING OFFICER: (SENATOR MAITLAND)

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Further discussion? Senator Jones.

SENATOR E. JONES:

Yeah. Thank you, Mr. President and Members of the Senate. First, let me commend all those who have been involved in trying to come to a resolve on this very, very critical issue. And through the process, we've all learned quite a bit. I've learned quite a bit. I want to commend Senator Cullerton, Senator Molaro, Senator Petka, Senator Hawkinson, because all of the discussions that we've had as it relate to this particular issue. I want to commend Senator Hendon, Senator Barack Obama, Senator Trotter, Senator Shaw, all those who brought forth the issues as it relate to this critical issue that has us here in Springfield a few days before Christmas. And many of these issues we have discussed in the meetings that we've held. Sometime I agree; sometime I disagree. But the question before us today is: Are we going to pass a law to try to stem the tides of guns that kill so many of our citizens, especially in the -- in the inner city, at the same time, trying to protect the rights of those individuals who are not criminals? But let's make one thing crystal clear. The law that was on the books, if you carried a firearm illegally, you were breaking the law. Even the honest citizens who took the gun with them for their own protection, the small businessperson, whoever had the firearm and arrested, you were breaking the law. Now what's before us now is how do we try to protect those individuals who have broken the law and not lump them in with those who had criminal intent in carrying those guns? And it's a

very delicate balance. I understand the reason, those differences we have as it relate to those downstate worried about the hunters and that use of those guns. But I have looked at the numbers. I have looked at those numbers downstate. Many of the counties over the past four years have not even had an arrest. Nearly half the counties, there may have been one, two or three convictions for

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the arrest. So that is not the issue. It's not the issue as it relate to the hunters are being disturbed because of this law, because they're not being arrested and not being convicted. So it must be another reason why those who make those arguments as it relate to the regional difference downstate. As it relate to selective enforcement, when we, as a society, begin to address this issue in truth and say, "yes, there is," and we, in turn, intend to stop that, then we'll all be better off. It's -- it's frightening to me, and I addressed this to the State's Attorney of Cook County, I addressed it to the Superintendent of the Chicago Police Department, that it does exist. And to pretend that it does not exist, if you think only African-Americans or Hispanics carry guns, you're only kidding yourselves. But leadership in those two offices must exist -- at the felony review process.

When you bring a person in, treat everybody equal. If an arrest is made of a businessman, be he black, white or Hispanic, treat all of them equal. Don't give the expungement on the front end for some and on the back end for others. That cannot be addressed in this legislation. I want the guns off the street. I think women and men and children should have the right to live in a society where there is no fear of going out and playing and have someone with a gun drive by and shooting you. That's what is before us, here in this great State of Illinois, with all its regional differences. But the issues that concern me cannot be dealt with in this legislation. It cannot be. I wish it could. But I called upon the Superintendent, I called upon the State's Attorney to talk to your people who are in the front line to be sensitive to these issues and make sure that fairness prevails. That's the way it has to be resolved. It's very difficult to legislate feelings and emotions by people, or attitudes. It's very difficult to do that. But we have a serious problem here in the State of Illinois. We have a problem where people are dying.

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Some of the same people who we're trying to protect, at the same time, they're losing their children, they're losing their

neighbor, losing their friend. When I'm here in Springfield, my greatest fear - my greatest fear - I have a twenty-one or twenty-two-year-old African-American male. I fear that if a call comes in, they happen to be caught in the wrong place at the wrong time. The more guns we get off the street, the better off they will be. But by the same token, by the same token, if they happen to be driving down the street, I don't want them stopped and frisked just because they happen to be African-American. Very thin line. That leadership has to come from those who are on the front lines. And I see my good friend, Senator Dudycz, I see Senator Munoz, and I suggest you take this back to your colleagues, because that's where it has to happen. But we cannot wipe out all the criminal laws trying to protect those who are innocent. At the same time in doing so, the criminals go free. This is a very difficult thing before us. We've been here for five days. Most of -- of us want to get out of here. If we do the right thing, we can be out of here tonight. It requires giving by all of us on this issue. I urge a Aye vote, and let's go home to our families.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Walsh, to close.

SENATOR L. WALSH:

Thank you, Mr. President. But I do yield to Senator Cullerton to give our closing remarks.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Cullerton, to close.

SENATOR CULLERTON:

Yes, thank you, Mr. President, Members of the Senate. First

thing I want to do is address an initiative that was raised by one of the Senators in debate with regard to the FOID Card. That idea

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came to me from your caucus. There was a concern that if you got this probation, that your FOID Card would automatically be -- become invalid and that the weapons that you legally own back in your house, just possessing them would be a Class 3 felony. It wasn't my concern, but that was the concern of Members of your caucus. They asked me if I would put it in there. So we sat down with the State Police and tried to craft legislation that would address that issue. Now, then you say that you think that there's an incongruity or something about how we could treat a -- a shoplifter who gets convicted and they lose their FOID Card, but a unlawful use of a weapon violator doesn't. Well, that is a good point, but the reason why we did it was because of the request from your caucus because, apparently -- and -- and the reason why we're doing this special probation is because there's a thought out there that there's -- some people who are charged with UUW are somehow truly innocent. They just happened to have some technical violation of the law and it's just not fair. And -- and so, we're creating this particular probation just for them. And we're making

it special, and we're making it as -- as -- giving the court the option to provide this type of a -- of a sentence for those people who we think are really and truly only providing maybe, perhaps, technical violations of the law. So, I wanted to give you the history of why it was in there. It came as a request of your caucus, and that's why it was. Now, the other thing you have to remember - we haven't talked about this - but we are reenacting the Safe Neighborhoods Act. If we vote No, we would not be reenacting the Safe Neighborhoods Act and all of the bills that were included in it. Now, they include requiring Federal {sic} (Firearm) Owners ID applicants to provide evidence that they are not illegal aliens; empowering the -- I'm sorry. Firearm Owners Identification applicants must show that they are not illegal aliens. It empowers the Illinois State Police to revoke FOID

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Cards for illegal aliens. FOID violations are a Class A misdemeanor as a result of this bill. Now, this one is very important and we haven't even talked about it. This bill will make aggravated DUI a Class 4 felony. Mothers Against Drunk Driving are very strongly in favor of this provision. It has to be reenacted, and a No vote means you're not reenacting it. We

are expanding the driving while license suspended and revoked provisions to include violations of restricted driving permits. Attempted first degree murder increases -- the sentence increases from fifteen to sixty to twenty to eighty. Wouldn't want to vote against that. We even have something in here on prostitution. We allow any item of value to serve as consideration. Solicitation of a sexual act allowed any item of value to serve as consideration. Pandering - allowing any item of value to serve as consideration. Pimping - allowing any item of value to serve as consideration. Juvenile pimping - allowing any item of value to serve as consideration. You'd be voting against that if you voted No. Exploitation of a child - allowed any item of value to serve as consideration. Aggravated battery with a firearm - it makes it a Class X felony with a sentence range of fifteen to sixty years. Intimidation - it increases penalties from Class 4 to Class 3 felony. Compelling organization membership - it increases penalties for certain violations from Class 3 to Class 2 and from Class 2 to Class 1. Aggravated discharge of a firearm - sets the term for Class X felony violations at ten to forty-five years. Unlawful sale of firearms - it increases penalties for certain violations from Class A misdemeanor to a Class 4 felony and from Class 4 to Class 2 or 3 felony. Unlawful possession of firearm or ammunition - separated offenses into two, separate paragraphs. Gunrunning. Remember gunrunning? It was a new -- it wasn't an enhancement; it was a brand-new penalty which the Supreme Court struck down in their decision. We would be re-creating that

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offense as a Class 1 felony. Defacing identification marks of firearms - increasing the penalties from a Class 3 to a Class 2. Violation of bail bond - we added violation by possession of firearm provisions. Communicating with jurors or witnesses - we are increasing the penalty from Class 4 to Class 3. Harassment of representatives for jurors, witnesses and family members - increasing penalties from Class 4 to Class 2. Armed violence - we're making certain changes with definitions and we're specifying penalties for violations with particular categories of weapons, ranging from Class 4 to Class X. Cannabis offenses - first offender probation, which we talked about earlier, sets the period of probation to twenty-four months and adds conditions of periodic drug testing and community service. In our bill, at the same time with regard to the UUW, we're saying that it's only six to twelve months. ...think it's important to note that those are the bills that the Supreme Court struck down and that we'd be reenacting them. I think we really tried to reach a compromise with regard to this unlawful use of weapon provision and, as a result, I would ask for an Aye vote.

PRESIDING OFFICER: (SENATOR MAITLAND)

All right. Ladies and Gentlemen, this is final action. The question is, shall the Senate concur in House Amendment No. 2 to Senate Bill 224. Those in favor will vote Aye. Opposed, Nay.

The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record, Mr. Secretary. On that question, there are 29 Ayes, 18 Nays, 7 Members having voted Present. The motion fails. The Chair would now entertain a motion to nonconcur. Senator Walsh, do you wish to make a motion to nonconcur?

SENATOR L. WALSH:

...President, I would like to ask for postponed consideration.

PRESIDING OFFICER: (SENATOR MAITLAND)

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Senator, that -- it is the history and tradition in this Body that on motions to concur, we don't have postponed consideration. I stated previously -- I stated previously that the Chair would entertain a motion to nonconcur and that is the motion that would -- should be properly put. Postponed consideration is not properly before this Body. Do you want to proceed, Senator Walsh, with a motion to nonconcur?

SENATOR L. WALSH:

No, I would like to proceed with the motion to...

PRESIDING OFFICER: (SENATOR MAITLAND)

The proper motion, as I stated -- I -- I said the motion

fails. The Senate would entertain a motion to nonconcur. Senator Demuzio, for what purpose do you arise, sir?

SENATOR DEMUZIO:

You know, I have been here for twenty-five years and no one has ever been denied the opportunity to postpone consideration on a bill in any posture in this Chamber. Now, if you'll look under Rule 7-12, a motion to postpone consideration -- a motion to postpone consideration on a legislative measure may not be made more than once on the same bill. Unless otherwise provided in these rules, a motion to postpone consideration shall be granted as a matter of privilege. "Shall." Now, I think that if we're going to start this after twenty-five years -- this is a democracy. This is our rules. He has every right to postpone consideration of his -- of -- of this roll call. Every -- every right to do so.

PRESIDING OFFICER: (SENATOR MAITLAND)

Senator Demuzio, I have made my ruling. Senator Demuzio, that is -- that request is in order. The question is, shall the ruling of the Chair be sustained. Those in favor -- those in favor will vote Aye. Opposed, Nay. The -- voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Take

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the record, Mr. Secretary. On that question, there are 28 Ayes, 26 Nays, no Members having -- voting Present. Having failed to receive the necessary three-fifths negative votes, the appeal fails and the ruling of the Chair is sustained. Senator Walsh, do you wish to make a motion to nonconcur?

SENATOR L. WALSH:

No. No, Mr. President.

PRESIDING OFFICER: (SENATOR MAITLAND)

The Senate will stand at ease.

(SENATE STANDS AT EASE/SENATE RECONVENES)

PRESIDENT PHILIP:

The Senate will please come to order. Is there any further business to come before the Second Special Session? If not, Senator Weaver moves that the Second Special -- Session stands adjourned until 10:05 a.m., Saturday, December 18th.

(SENATE RECONVENES FIRST SPECIAL SESSION)

(See First Special Session Transcript)

